

STATE OF RHODE ISLAND
WASHINGTON, SC.

SUPERIOR COURT

NEW SHOREHAM POLICE DEPARTMENT, :
VINCENT CARLONE; :

LIEUTENANT PAUL DEANNE, Individually :
And on behalf of all other New Shoreham :
Lieutenants now or in the future; :

SERGEANT JOSEPH DEMATTEO, :
Individually and on behalf of all other :
New Shoreham Sergeants now or in the future; :

CAPTAIN CHRISTOPHER RICH, Individually :
And on behalf of all other New Shoreham :
Captains now or in the future; :

OFFICER THOMAS PENNELL, Individually :
And on behalf of all other New Shoreham :
Officers now or in the future; :

OFFICER STEVEN LAND, Individually :
And on behalf of all other New Shoreham :
Officers now or in the future; :

NEW SHOREHAM CHIEF OF POLICE, :
In his/her official capacity; :

Plaintiffs, :

v. :

KENNETH C. LACOSTE, :
ANDRE BOUDREAU, SVEN RISOM, :
MARTHA BALL, CHRISTOPHER WILLI, :
In Their Capacity as Members of the :
Town Council and Individually; :

MILLICENT MCGINNES, as Town Clerk and :
As Court Appointed Guardian and :
Executrix of Violette Connolly's Last Will and :
Testament; :

MARGARET COMINGS, SVEN RISOM, :
SAM BIRD, JOHN SPIER, :

C.A. NO. WC-2019-

H. DENIS HEINZ, SOCHA COHEN,	:
MARY ANDERSON, In Their Capacity as	:
Members of the Planning Board;	:
	:
ELIZABETH CONNOR,	:
KATHARINE ATWATER BUTCHER,	:
JUDITH CYRONAK, SUSAN BUSH,	:
ROBERT LAMOUREUX, JOSH REDD,	:
CHRISTINE GRELE, In their Capacity as	:
Members of the Zoning Board of Review;	:
	:
ED ROBERGE, In His Capacity as Town	:
Manager and Individually;	:
	:
PETER F. NERONHA, In His Capacity as	:
Rhode Island Attorney General;	:
	:
NANCY DODGE, Individually and	:
In Her Capacity as Town Manager; and,	:
	:
JOHN and JANE DOE 1-10	:
<i>Defendants.</i>	:

COMPLAINT

NOW COMES, the Plaintiffs, individually and on behalf of members of the New Shoreham Police Department (hereinafter collectively referred to as the “Plaintiffs” and/or the “Police Officers”), and hereby complain against the Defendants, Kenneth C. Lacoste, Andre Boudrea, Sven Risom, Martha Ball, and Christopher Willi, in their official capacity as Members of the Town Council of the Town of New Shoreham (hereinafter referred to as “Members of the Town Council”), Elizabeth Connor, Katharine Atwater Butcher, Judith Cyronak, Susan Bush, Robert Lamoureux, Josh Redd, and Christine Grele, in their official capacity as Members of the Zoning Board of Review (hereinafter referred to as the “Members of the Zoning Board”), Margret Comings, Sven Risom, Sam Bird, John Spier, H. Dennis Heinz, Socha Cohen, and Mary Anderson, in their official capacity as Members of the Planning Board (hereinafter referred to as

the “Members of the Planning Board”), Peter F. Neronha, in his official capacity as Rhode Island Attorney General, and as Administrator of Charitable Trusts, Nancy Dodge, individually and in her capacity as the previous Town Manager, Ed Roberge, individually and in his official capacity as Town Manager, Millicent McGinnes, as Town Clerk, the Town of New Shoreham, in their capacity as the Trustee and Executrix of the Viloette M. Connolly Trust, testamentary trust, aka the Charitable Trust herein, and John and Janes Does 1-10 (hereinafter collectively referred to as the “Defendants”) as follows:

PARTIES

1. The Plaintiffs are New Shoreham Police Officers, all of whom live on Block Island in the Town of New Shoreham, County of Washington, State of Rhode Island.
2. Defendants Kenneth C. Lacoste, Andre Boudreau, Sven Risom, Martha Ball and Christopher Willi are members of the Town of New Shoreham Town Council and are residents of the County of Washington.
3. Defendants Elizabeth Connor, Katharine Atwater Butcher, Judith Cyronak, Susan Bush, Robert Lamoureux, Josh Redd, and Chritine Grele are members of the Town of New Shoreham Zoning Board of Review and are residents of the County of Washington.
4. Defendants Margaret Comings, Sven Risom, Sam Bird, John Spier, H. Dennis Heinz, Socha Cohen, and Mary Anderson are members of the Town of New Shoreham Planning Board and are residents of the County of Washington.
5. Defendant Millicent McGinnes, is the Town Clerk, Court Appointed Guardian of Violette M. Connolly and Executrix of Violette M. Connolly’s Last Will and Testament.
6. Defendant Ed Roberge is the Town Manager for the Town of New Shoreham and is a resident of the County of Washington.

7. Defendant Nancy Dodge was the Town Manager during the time of the facts herein mentioned and is a resident of the County of Washington.
8. John and Jane Doe 1-10 are individuals who acted in concert, partnership, joint venture, conspiracy or as aiders and abettors with each of the other or some of the other identified and named defendants and whose names and identities are currently unknown to the Plaintiff, and are, therefore, named in their capacity as actors and defendants and who will be renamed and substituted as their true names and identities become known during the proceedings within this lawsuit.

JURISDICTION AND VENUE

9. Jurisdiction for this matter properly lies in this Court in that, pursuant to Rhode Island General Law § 8-2-13, the Superior Court shall have exclusive original jurisdiction of suits and proceedings of an equitable character and of statutory proceedings following the course of equity and, pursuant to Rhode Island General Law § 8-2-14, the Superior Court shall have exclusive, original jurisdiction of all actions at law in which the amount in controversy shall exceed the sum of Ten Thousand Dollars and 00/100 (\$10,000.00). The Plaintiffs assert that the value of damages exceeds Five Hundred Thousand Dollars and 00/100 (\$500,000.00).
10. This Court has jurisdiction over the within matter and all parties based on the fact that the Plaintiffs and Defendants are all either individuals that are Rhode Island residents or foreign individuals with minimum contacts within the State of Rhode Island within the ambit of Rhode Island's Long Arm Statute.

11. Venue for this matter is properly in this Court because the Plaintiffs and the Defendants do business, are located and/or reside in the County of Washington, State of Rhode Island.

FACTS

12. This matter arises out of the Last Will and Testament of Violette M. Connolly executed on January 9, 2007, attached hereto as Exhibit A.
13. Violette M. Connolly was a resident of the Town of New Shoreham, State of Rhode Island, since 1986.
14. Violette M. Connolly and her husband subdivided their New Shoreham property into two (2) lots and sold one of their houses. They retained the residence known as the “White House”, which remained their residence for the rest of their lives.
15. The Plaintiffs, members of the New Shoreham Police Department, individually and in their individual capacities, have to pay exorbitant rates for fair housing on Block Island due to summer tourism and the market value for residential rental real estate.
16. Violette M. Connolly took notice of the plight and unfair housing conditions attendant upon the New Shoreham Police Officers and, as a result, she bequeathed a gift to the New Shoreham Police Officers through a testamentary charitable trust. See Exhibit A, Section “Second”.
17. In Violette M. Connolly’s Last Will and Testament, Violette M. Connolly bequeathed her property, both real and personal, to the Town of New Shoreham in trust for two (2) specific and unambiguous purposes. The provisions of the Connolly Will creating the charitable trusts are as follows:

“SECOND: DISPOSITION OF RESIDUE. All the rest, residue and remainder of the property, real and personal, wherever located, of which I shall die seized or possessed, I give, devise and bequeath as follows:

1. The White House and all my personal property to the Town of New Shoreham, in trust, to be maintained and preserved for historical purposes. The Town may operate The White House as a museum, bed and breakfast or in any other manner it determines consistent with my express desire to have the building and its collections of furnishings and historic documents maintained in perpetuity.
 2. The barns on the White House property to the Town of New Shoreham, in trust, to be used to provide year-round rental housing to Block Island police officers.” *See Exhibit “A”*
18. Violette M. Connolly’s Last Will and Testament, Provision Second, Paragraph 2, explicitly created a legal charitable trust (hereinafter referred to as the “Charitable Trust”) for the sole and exclusive benefit of the New Shoreham Police Officers. The Charitable Trust named the Town of New Shoreham as the Trustee.
19. Violette M. Connolly specifically created a charitable trust to hold her property to provide year round rental housing to the New Shoreham Police Officers at a reduced rate.
20. Prior to Violette M. Connolly’s death, Violette Connolly became ill and, as a result, a guardian, Millicent B. McGinnes, was appointed.
21. At all times material hereto, Millicent B. McGinnes was an employee of the Town of New Shoreham and served as the Town Clerk.
22. As a result of her incapacity, Violette Connolly was placed in the South County Nursing & Rehabilitation Center.

23. During the period of time lived in the Rehabilitation Center, she incurred an indebtedness in excess of \$30,000. She was without liquid assets to pay this cost of residing in the nursing facility.
24. Pursuant to a Petition filed by the Guardian, Millicent McGinnes, the Probate Court ordered the sale of Violette Connolly's New Shoreham real estate, which included the "White House" and barns, by decree entered October 6, 2008.
25. The real estate was sold for \$875,000, and the funds from the sale were used by the Guardian to support Violette M. Connolly for the remainder of her life.
26. The personal contents of the White House and the barn, upon Violette M. Connolly's death, were to be donated to the Block Island Historical Society, a charitable organization which qualifies as an exempt organization under §501(c)(3) of the Internal Revenue Code of 1986, as amended pursuant to Decree of the Probate Court of the Town dated October 6, 2008.
27. The Block Island Historical Society has established a permanent memorial to Joseph V. Connolly, with the personal items donated to it.
28. The Probate of the Estate of Violette Connolly consisted of personal assets in the amount of \$601,672.00, which were used to acquire real estate to be used for the intended purpose set out in the Last Will and Testament of Violette Connolly. This purpose was to place, in trust, her entire Estate, with the Town of New Shoreham serving as Trustee, for the benefit of the New Shoreham Police Officers, to provide year-round reduced housing cost.
29. On or about October 11, 2011, the Town of New Shoreham held a Town Meeting. Attached hereto as Exhibit B is a true and correct copy of the Town Meeting Minutes.

30. The Plaintiff Police Officers never received notice of the Town Meeting. The Plaintiff Police Officers had no one acting on their behalf conflict free or in their best interest. Nevertheless, notice was required pursuant to law.
31. Pursuant to the Town Meeting, the Town Treasurer with the consent and approval of the Town Council, authorized the Town of New Shoreham, as trustee, to enter into a Purchase and Sales Agreement (“Agreement”) for the purchase of the “Thomas Property”, Assessors Plat 8, Lot 218, from the Block Island Health Services, Inc., a Rhode Island non-profit corporation.
32. Pursuant to the Town Meeting, the Town Council was to contribute the amount of \$240,000 to Violette M. Connolly’s Charitable Trust and Violette Connolly’s remaining Estate assets, in the amount of \$540,000, were to be contributed to the Charitable Trust and then the Charitable Trust was to purchase the Thomas Property.
33. At the Town Meeting, Nancy Dodge, the Town Manager, explained that the taxpayers were being asked to contribute the \$240,000 towards the purchase of and improvements to the Thomas Property.
34. The purchase of the Thomas Property was for the purpose of providing the two (2) existing units on the Thomas Property to the New Shoreham Police Officers, consistent with Violette M. Connolly’s bequeath in her testamentary trust.
35. The Town agreed to periodically confer with the Police Department and Police Officers to determine whether any New Shoreham Police Officer desired to rent the units.
36. The vote put forth by the Town Council to the residents of the Town that came to the meeting provided that, alternatively, if no New Shoreham Police Officers were willing or able to rent the units on the Thomas Property, that the Town may offer the units to

other Town employees. Notwithstanding the specific, unambiguous and clear terms of the Testamentary Trust established by Violette Connolly, the Town, in its capacity as the Trustee of the Charitable Trust, by and through its Town Manager and Town Council, without any authority and without any notice to the Trust Beneficiaries, represented at the aforesaid Town Meeting to Town residents in attendance that, if New Shoreham Police Officers were not going to rent the aforementioned rental units created under the terms of the Charitable Trust, then, in such event, the units would be rented to others who were never intended to be beneficiaries of the Charitable Trust. This proposal solely benefited the Town and was detrimental to the Police Officer beneficiaries. The Trustee had, has and maintains an actual conflict of interest between itself, as a Town, and the Police Officers, as beneficiaries of the Charitable Trust. The Town has commingled assets and has damaged assets of the Trust as a result.

37. The decision made at the Town Meeting and the resulting Agreement altered the terms of the Charitable Trust. The Agreement provided a benefit for other Town employees, explicitly adverse to the beneficiary Police Officers and the intent of the Charitable Trust.
38. The Plaintiff Police Officers never received notice of the Town Meeting. The Plaintiff Police Officers had no one acting on their behalf conflict free or in their best interest. Nevertheless, notice was required pursuant to Zoning Ordinance Section 704 C. (1) and D. (5)
39. Had the Police Officers, as beneficiaries of the Charitable Trust, received notice of the Town Meeting, they would have objected to the decision made by the Town Council. The act of the Town Manager, Town Council,, and the town acting on behalf of the

Trust as Trustee, was an *ultra vires* act, whereby the Trustee altered the terms and conditions of the Trust and/or simply violated the terms of the Trust to use the Trust assets for the benefit of the Trustee, and not that of the Beneficiaries.

40. As required by Rhode Island law, the Agreement between the Executrix of the Estate of Violette Connolly and the Town of New Shoreham was subject to the approval of the Superior Court of the State of Rhode Island, Washington County, and the approval of the Rhode Island Attorney General in his capacity as the Administrator of a Charitable Trust created and established in the State of Rhode Island. In an effort to hide their *ultra vires* acts, the Trustee, the Town of New Shoreham, and by and through its Counsel, the Town Clerk and the Town Solicitor filed a Petition with the Washington County Superior Court seeking this Court's approval of their *ultra vires* act. At no time did the Town, its capacity as Trustee or otherwise, provide any notice whatsoever to any police officer of the Town of New Shoreham, nor did they notify any police officer of the Town of New Shoreham that they were beneficiaries of the Charitable Trust. The Town did, however, provide notice to the Rhode Island Attorney General in its capacity as an administrator of the Charitable Trust under the requirements of the Cy-Pres Doctrine.
41. A Joint Petition was filed by the Town and Violette M. Connolly's Executrix, Millicent A. McGinnes, a town employee, for an Order in Aid of Construction and Application of Funds Devised under the Will of Violette M. Connolly in the Washington County Superior Court. Attached hereto and incorporated herein as Exhibit C is a true and correct copy of the Joint Petition.
42. The Attorney General of the State of Rhode Island filed an Objection to the Joint Petition, setting forth his concern that the express intent under the Will that a trust be

created for the benefit of Police Officers of the Town of New Shoreham was being violated by the terms of the proposed Agreement. Attached hereto as Exhibit D is the Attorney General's Objection to the Joint Petition.

43. The Attorney General believed it was a violation of the express intent because the Trust was set up for the benefit of the police officers, not the Town. If Violette Connolly wanted to leave her property to the Town, she could have easily done so. By entering into a Agreement to purchase the Thomas Property in fee simple, it was the Attorney General's belief that they would be terminating the Trust and using the funds in an inconsistent manner to Violette Connolly's wishes and intent. *See* Exhibit "D", page 2.
44. On December 5, 2011, an Order (hereinafter referred to as the "Court Order") with the consent of the Attorney General was entered in the matter entitled, *In re: The Estate of Violette M. Connolly*, M.P. No. WC2011-724, by Mr. Justice Carnes, which approved the Agreement with express restrictions on the development of the property. Attached hereto as Exhibit E is the Order.
45. The Court ordered the following:
 - "1. The Joint Petition is granted and the Court hereby approves the agreement between the Executrix of the Estate of Violette M. Connelly and the Town of New Shoreham as follows:
 - a. The Town of New Shoreham (the "Town"), using funds from the Estate of Violette M Connelly (the "Estate"), and funds approved by the electors at a Special Town Financial Meeting, will purchase the property.
 - b. The Town agrees to rent two (2) existing units on the Property to New Shoreham police offers following the expiration of the leases, which currently exist. In the event that there is no New Shoreham police officer willing or able to rent either or both of the units, the Town may offer the units for rental to Town employees, including employees of the school department. In the event that there is no Town or school department employee willing or able to rent either or both of the units, the Town may offer the units for rental to Town residents. In the event

that there is no Town resident willing or able to rent either or both of the units, the Town may offer the units for rental to the general public.

c. The Town agrees that no rental agreement with a person other than a New Shoreham police officer shall be for a period longer than one (1) year.

d. The Town agrees that at such times as one or more of the units is rented other than to New Shoreham police officer, the Town shall periodically confer with the police department and the police officers to determine whether any New Shoreham police officer(s) desires to rent either unit. At such time as a New Shoreham police officer is willing and able to rent a unit occupied by a person other than a New Shoreham police officer, the Town shall not renew any lease with such other person and, at the termination of any existing lease, shall rent the unit to Block Island police officer.

e. In the event that the Town determines that it is in the best interests of the Town to sell the property, a portion of the net proceeds of any such sale (hereinafter referred as the "Police Officer Set Aside" as calculated in the manner set forth below) shall be set aside by the Town and applied by the Town for the benefit of New Shoreham police officers in such manner as the Town council shall deem appropriate. The Police Officer Set Aside is calculated by multiplying the net proceeds from the sale of the Property (hereinafter referred to as the "Net Proceeds") by a fraction whose Numerator is the total dollar amount of the "Estate Contribution" to the purchase of the Property (hereinafter referred to as the "Estate Contribution"), and whose Denominator is the total amount of the Town's investment in the Property including amounts expended to purchase the property (including, without limitation, attorney's fees and closing costs) and all capital improvements made by the Town in connection with the Property (hereinafter collectively referred to as the "Town Contribution") plus the Estate Contribution.

$$\text{Police Officer Set Aside} = \frac{\text{Estate Contribution}}{\text{Town Contribution} + \text{Estate Contribution}} \times \text{Net Proceeds}$$

The balance of the Net Proceeds shall be returned to the Town's general fund."

46. At all times during the Superior Court proceedings mentioned above, no Plaintiff Police Officer received notice of the proceedings.
47. The Town of New Shoreham and the Attorney General, as Administrator of the Charitable Trust, knew the beneficiaries were the New Shoreham Police Officers and

never provided notice to the Police Officers. This was done intentionally so the Court would not know that the Police Officers would object to such an Order.

48. Notwithstanding the Court Order quoted above, the contribution by the Town to the Charitable Trust was in fact a gift to the Charitable Trust. The claimed Agreement between the Town and the Executrix of The Estate of Violette Connolly is void as a matter of law and against public policy. The Court Order was obtained through misrepresentation to the Court and omission of material facts to the Court and without any notice to the actual, existing and known beneficiaries of the Charitable Trust. Neither the Town, as the Trustee, nor the Attorney General considered the intent of the Trust or the rights of the beneficiaries under the terms of the Trust.
49. On January 31, 2012, title to 390 High Street, New Shoreham, Rhode Island, Plat 8, Lot 218, the Thomas Property, was transferred by Warranty Deed from Block Island Health Services, Inc. to the Town of New Shoreham in exchange for the payment of \$725,000, which Warranty Deed was recorded in Volume 443, Page 065 of the Land Evidence Records of the Town of New Shoreham. Attached hereto as Exhibit F is the Warranty Deed. It is important to note that the Warranty Deed transfers the Thomas Property directly to the Town and not to the Town as Trustee. It is clear and unambiguous that the Town was seeking to take the position that it owns the Thomas Property and not the Trust.
50. The Town of New Shoreham has failed, refused and neglected to register the Charitable Trust with the Rhode Island Attorney General Charitable Trust Division and has failed, refused and neglected to file annual reports in accordance with State law setting forth the

use of the funds in said Charitable Trust, all to the detriment of the Trust's beneficiaries, the New Shoreham Police Officers.

51. The Town of New Shoreham has failed, refused and neglect to comply with paragraph 5 of the Court Order, which provides that "On an annual basis, the Town shall advise the Attorney General of the name, occupation and employer of the tenant(s) at the Property (which information the Attorney General shall keep confidential) and the monthly rental for the Property", to the detriment of the Trust's beneficiaries, the municipal police officers of the Town of New Shoreham.
52. The Attorney General has failed, refused and neglected to monitor the acts and doings of the Trustee of the Charitable Trust, as required by law.
53. On or about January 16, 2019, continued from a Public Hearing held on November 19, 2019, the Town Council heard proposed amendments to change the Zoning District for the Thomas Property to a Community Service Zoning District, to provide housing for municipal employees.
54. Upon information and belief, all of the current Town Council members and the Town Manager are aware of the Charitable Trust and know each beneficiary of the Trust and deliberately did not provide notice of the proposed Zoning District attachments to the Trust beneficiaries.
55. Pursuant to New Shoreham Zoning, Section 704 (c)(1) and (D)(5), the Town and the Trustee are to provide notice to neighboring property owners and interested parties of the Public Hearing, including the New Shoreham Police Officers.
56. The Police Officers, as beneficiaries of the Charitable Trust, and interested parties, never received notice of the proposed re-zoning of the Thomas Property.

57. On or about January 2, 2019, the Town of New Shoreham filed with the Planning Board a Development Plan Review Application, accompanying a Report by Edward Roberge, Town Manager, pertaining to the Thomas Property (hereinafter referred to as the “Application”). Attached hereto as Exhibit G is the Application and Report to the Planning Board.
58. Upon information and belief, all of the current Town Council members and the Town Manager are aware of the Charitable Trust and know each beneficiary of the Trust and deliberately did not provide notice of the proposed Zoning District attachments, in accordance with Section 704.
59. The Application provides for a 1.5 Million Dollar single-family residential structure to be built on the Thomas Property, for the sole use and residence of the Town Manager, Edward Roberge.
60. Neither the Development Plan Review Application filed by the Town of New Shoreham nor the Report to the Planning Board issued by Edward Roberge, Town Manager, referenced or disclosed the restrictions on the Thomas Property, the Superior Court Order. In addition, no notification of the Development Plan was sent to the Rhode Island Attorney General, as Administrator of the Charitable Trust, or to Plaintiff Police Officers, who are beneficiaries under said Trust.
61. On or about February 13, 2019, pursuant to a Public Hearing, the Planning Board approved the Development Plan Review Application to construct a single-family residential structure on the Thomas Property and convert the existing two-family structure into four (4) town employee accessory apartments. Attached hereto as Exhibit H is the Planning Board Decision.

62. The Town is in violation of the wishes and intent of Violette Connolly. The use of the single-family home is not for the benefit of the New Shoreham Police Officers, but for the sole benefit of the Town Manager, Edward Roberge.
63. The Planning Board approved the Development Plan Review Application over an objection for a neighboring landowner, Cathy Payne. Cathy Payne, by and through her counsel, raised the issue of the restriction on record as set forth in the Court Order, specifically stating that no further action could be taken with regard to the Thomas Property without prior approval and an Order of the Superior Court, Washington County and notification and approval of the Attorney General for the State of Rhode Island.
64. The Planning Board approval of the Development Plan Review Application is directly adverse to the Court Order, stating “No change to this Order may be made without application to the Superior Court and notification to the Attorney General”. *See Exhibit E*, Paragraph 4.
65. The Police Officers, as beneficiaries of the Charitable Trust, never received notice of the Town Meetings approving the Application to construct a single family dwelling on the Thomas Property and construct four (4) town employee accessory apartments.
66. The Town Council Members, Planning Board, and Zoning Board have amended the Charitable Trust. All the assets of the Charitable Trust now benefit the Town Manager and Town Employees, rather than the Police Officers. This was done solely for the benefit of the Town and to the detriment of the beneficiaries, the New Shoreham Police Officers.
67. On or about July 26, 2019, the Town, as the self-appointed representative of the Estate of Violette M. Connolly, and the Attorney General entered into a Consent Order

(hereinafter referred to as the “Consent Order”). Attached hereto as Exhibit I is the Consent Order. The Consent Order provided for the 2011 Order to be modified, pursuant to the Planning Board’s approval of the Application, allowing the construction of a single family dwelling (for sole benefit of the Town Manager) and the two (2) units to be converted into four (4) units.

68. The Town’s interest in benefitting itself and the Town employees is in direct conflict to the interests of the Police Officer beneficiaries.
69. The Consent Order also provided that the Town agrees to rent the four (4) units to the New Shoreham Police Officers, or in the alternative, to Town employees.
70. At no time did the Attorney General or the Town, as representatives of the Estate of Violette M. Connolly, or any Trustee of the Charitable Trust ever notify the beneficiary Police Officers of the further amendment to the Charitable Trust, providing a benefit for the Town Manager and other Town Employees. All of the Plaintiff Beneficiaries are personally known to the Town Council members, Town Manager, and the Defendants named herein. The failure to give any notice was deliberate, intentional and willful, and was done in order to misrepresent or intentionally omit material fact to the Court.
71. Since the date the Thomas Property was purchased, not one police officer has been able to rent any of the units due to the high prices of the rent, which goes against the intent of the decedent’s wishes and the intent of the Charitable Trust. All rent received has been retained by the Town and no proceeds have ever been provided to the Police Officers. The Town has refused to account to the Police Officer for the proceeds received by the Town from the Trust Assets.

72. During all Town and Superior Court proceedings herein mentioned, the Police Officers were never notified as beneficiaries of the Charitable Trust.
73. Upon information and belief, the Defendants, and each of them, deliberately and willfully refused and failed to provide notice to the beneficiaries.
74. At all times herein mentioned, no Defendant has ever informed any beneficiary Police Officer of the terms or conditions of this Charitable Trust.
75. The collective actions of the Defendants, in their individual and employment capacity as Members of the Town Council, Zoning Board, and Planning Board of the Town New Shoreham, and the Attorney General, as Administrator of the Charitable Trust, have perpetuated this scheme to deprive the Police Officers of their rights as beneficiaries under Violette Connolly's Charitable Trust.

CAUSES OF ACTION

COUNT I

VIOLATION OF THE CY PRES DOCTRINE §18-4-1, ET SEQ.

76. The Plaintiffs hereby incorporate Paragraphs 1 through 75 of this Complaint as if set forth in full at this time.
77. Violette M. Connelly's intentions are clearly expressed in her Last Will & Testament. Violette M. Connolly intended for her property to benefit the New Shoreham Police Officers, specifically to provide housing at a reduced rate.
78. The Town of New Shoreham, as Trustee, and the Attorney General, as Administrator of the Charitable Trust, have mismanaged the Charitable Trust.
79. The Defendants have amended the Charitable Trust to provide a benefit to the Town Manager and other Town employees, rather than for the sole benefit of the Police Officers, as intended by Violette M. Connolly.

80. As a result of the Defendants actions as stated above, the purpose of the donor, Connolly, cannot be literally carried into effect. The Defendants, and each of them, have intentionally diverted the Trust Assets from the names beneficiaries to their own benefit.

81. At all times herein mentioned, the Defendants, and each of them, deliberately, intentionally, willfully and for their own benefit and purpose refused and failed to advise any member of the New Shoreham Police Department that the Charitable Trust had been created for their benefit. Since the time of the creation of the Charitable Trust and the first Order entered by this Court, none of the Defendants have ever offered any Police Officer the right to rent property from the assets of the Charitable Trust in the manor intended by the settler of the Trust, Violette M. Connolly.

82. At all times herein mentioned, upon information and belief, the Defendants, and each of them, have collected rent from the Trust Assets and have kept the rent for their own personal benefit and have not used the proceeds from the collection of rent from the assets of the Charitable Trust for the benefit of the named, know, and actual beneficiaries of said Trust.

WHEREFORE, the Plaintiffs pray that this Court enter Judgment in their favor and appoint a new trustee and administrator to carry out the intent of Violette M. Connolly, which is to provide reduced rental housing for the benefit of the New Shoreham Police Officers, and for an accounting of the Trust, and for damages to be proven at the time of trial herein.

COUNT II
BREACH OF FIDUCIARY DUTY AND DUTY OF LOYALTY

83. The Plaintiffs hereby incorporate Paragraphs 1 through 82 of this Count as if set forth in full at this time.

84. Nancy Dodge (hereinafter referred to as “Dodge”) was the Town Manager at all relevant times herein.
85. Ed Roberge (hereinafter referred to as “Roberge”), is the current Town Manager.
86. At all times herein mentioned, the Town of New Shoreham is the Trustee of the Charitable Trust the Town acts and acted by and through conduct of the Town Managers, Dodge and Roberge, and the Town Council.
87. The Members of the Town Council act for and on behalf of the Town, and direct the Town Manager how to act, for and on behalf of the Town. The Town Council and the Town Managers served and serve as the effective Trustees of the Charitable Trust. The Town and Town Managers have an actual conflict of interest in serving as Trustee of the Charitable Trust.
88. At all times herein mentioned, Dodge, Roberge and all Town Council Defendants owed a duty of undivided loyalty to the Charitable Trust and the beneficiaries of the Trust, the New Shoreham Police Officers. Dodge, Roberge and all Town Council Defendants have had a fiduciary obligation to carry out the intent of the Charitable Trust, which is to provide reduced rental housing to the New Shoreham Police Officers.
89. Pursuant to that fiduciary duty of loyalty, all the Defendants had an obligation to act in the best interest of the beneficiaries of the Charitable Trust, the New Shoreham Police Officers, with honesty and undivided loyalty, placing the interest of the Police Officers over their own interests.
90. Based upon the facts set forth above, all of the Defendants, each of them, have breached that fiduciary duty by generating a fraudulent scheme a) to construct a new One Million Five Hundred Thousand Dollar (\$1,500,000.00) single-family dwelling upon the

Thomas Property for Roberge's sole and exclusive benefit; b) by refusing to act as a reasonably prudent Trustee; c) by intentionally failing and refusing to notify the New Shoreham Police Officers, as beneficiaries of the Charitable Trust, of the rights to obtain reduced rental property; d) by intentionally ignoring the beneficiaries and the Charitable Trust's interests; e) by taking action that was in the Town Manager Roberge's own best interest and the Town's interest by collecting rents for its own purpose, contrary to the interest of the beneficiaries; f) by unfairly dealing with the Charitable Trust assets, for Roberge's and the Town's benefit, to his/their own personal and municipal benefit; and, g) by using the assets of the Trust in an inconsistent manner, against the best interest of the beneficiaries, the Police Officers, as a whole and, instead, using the assets for the personal gain of the Defendants, unilaterally seeking to deprive the Police Officers of their beneficial rights.

91. Upon information and belief, Roberge and the other Defendants jointly, in concert, and fraudulently, deliberately, intentionally, willfully, negligently, knowingly and with reckless disregard for the rights of their fiduciaries, acted with loyalty and honesty toward the Police Officers and, in failing to act, have breached their fiduciary obligations, their duty of loyalty and duty of honesty owed to the New Shoreham Police Officers.
92. As a direct and proximate result of the breach of fiduciary duty, the Plaintiffs, personally, individually, collectively and derivatively as beneficiaries, have been damaged and have incurred expenses and legal fees.

WHEREFORE, the Plaintiffs pray that this Court enter Judgment in their favor as and against all the Defendants, on this Count II, finding that all Defendants have breached their

fiduciary duty and duty of loyalty owed to the Plaintiffs, as beneficiaries, and enter an award of money damages to compensate the Plaintiffs in an amount to be determined at the time of trial and for equitable relief as the Court deems just and proper after a trial on the merits.

COUNT III
FRAUD AND FALSE DEALING

93. The Plaintiffs hereby incorporate Paragraphs 1 through 92 into this Count III as if set forth in full at this time.
94. The Defendants, inclusive of the Members of the Town Council, the Members of the Zoning Board, the Members of the Planning Board, and the Town Managers, individually, and in their official capacities, have perpetrated a fraudulent scheme by using the Charitable Trust assets for their own benefit, as opposed to using said assets for the benefit of the New Shoreham Police Officers.
95. At all proceedings above mentioned, the beneficiaries of the Charitable Trust never received notice. Upon information and belief, this was done intentionally so as not to alert the Plaintiffs of their rights as beneficiaries.
96. Upon information and belief, it was also done so as to not put the public and Court on notice of the inherent and actual conflict of interest between the Defendants and the Trust beneficiaries.
97. No New Shoreham Police Officer has ever been offered the opportunity to rent a rental unit at the Thomas Property.
98. The Charitable Trust was created exclusively for the benefit of the New Shoreham Police Officers, solely and specifically to provide reduced housing costs due to the excessive cost to rent adequate housing on the Island of New Shoreham, and not for any other.

99. The Defendants have perpetuated this fraudulent scheme by amending the Charitable Trust to provide a benefit, alternatively, for the Town employees, and now, in particular, the Town Manager. Rents have never been offered to assist the New Shoreham Police Officers in regards to their ability to have affordable, full time rental property.
100. The Defendants have continued to perpetuated this fraudulent scheme by re-zoning the Trust real estate, the Thomas Property, through an illegal spot zoning scheme to allow the Town Manager to construct a single-family residence upon the Thomas Property, for his sole and individual benefit. The cost of this home is purported to be \$1,500,000.00.
101. This fraudulent scheme to deprive the beneficiaries of reduced rental property is conclusively demonstrated on the Public Record by the Planning Board and Zoning Board conduct. After receiving notice by Cathy Pane that their actions were in violation of the Superior Court Order, the Planning Board and Zoning Board approved the Development Plan Review Application. The Zoning Board and Planning Board had notice of the Superior Court Order, stating that no change to the Thomas Property shall be made without the Superior Court's approval and notice to the Attorney General, as Administrator of the Charitable Trust. They choose to intentionally and deliberately ignore the Superior Court Order.
102. Notwithstanding receiving actual knowledge that no New Shoreham Police Officer had ever been offered the opportunity to rent at the Thomas Property, and after receiving actual notice that the terms and conditions of the Charitable Trust were being violated, all the members of the Planning Board, Zoning Board, Town Council and Town Manager, nevertheless continued with their illegal spot zoning scheme, with the deliberate intention of taking the Charitable Trust assets away from the specific

beneficiaries of the Charitable Trust, to wit, the New Shoreham Police Officers, and giving and using the assets for themselves. Notwithstanding the actual notice provided by Cathy Payne, as set forth above, all of the Planning Board Members, Zoning Board Members, Town Managers, and Town Council Members deliberately and intentionally withheld providing notice to the beneficiaries the New Shoreham Police Officers, of the actions they were taking by taking the Charitable Trust assets away from the Police Officers' benefit, and using it for the benefit for each and all of the Defendants instead. Likewise, this failure to provide notice, and the actual conflict of interest between the Defendants and the Charitable Trust beneficiaries has been deliberately withheld from the Superior Court.

103. This fraudulent scheme has been consented to by the Attorney General, as Administrator of the Charitable Trust, and the Town, as representative of the Estate of Violette M. Connolly, as shown through the Consent Order attached hereto as Exhibit I.
104. Notwithstanding all of the notices that have since arisen regarding the fraudulent scheme perpetrated by the Planning Board, Zoning Board, Town Council and Town Manager, the Attorney General has likewise received actual notice by Cathy Payne of this conduct. The Attorney General is on actual notice that the Charitable Trust assets have never been used for the benefit of the New Shoreham Police Officers, who are the specifically designated beneficiaries of the Charitable Trust. Notwithstanding this actual notice, the Attorney General has joined in with the fraudulent scheme of the Defendants, thereby breaching his duty of loyalty to the State of Rhode Island and the Police Officers of the Town of New Shoreham, who have specifically denied the Police Officers the benefit of the Charitable Trust created for them.

105. Upon information and belief, the actions of the Planning Board, Zoning Board, Town Manager, and Attorney General are deliberate and intentional. All of these Defendants have knowingly, and with reckless disregard, acted and failed to act in accordance with the Superior Court Order and the Trust they are sworn to uphold and protect.
106. As a direct and proximate result of the Defendants' actions, the beneficiaries of the Charitable Trust, the New Shoreham Police Officers, have been damaged, in that they have not been provided a reduced year-long rental opportunity, notice of the above mentioned procedures, and have incurred unnecessary legal fees and alternative housing expenses.

WHEREFORE, the Plaintiffs pray that this Court enter Judgement in their favor and against the Defendants, and each of them, for compensatory and punitive damages in an amount to be proven at the time of trial herein.

COUNT IV
PRELIMINARY AND PERMANENT INJUNCTION

107. The Plaintiffs hereby incorporate Paragraphs 1 through 106 into this Count IV as if set forth in full at this time.
108. The Plaintiffs seek a permanent restraining order prohibiting the Town of New Shoreham, the Town Manager, the Town Council and any of the Defendants, in any capacity, from handling any monies, assets, or funds that are the property of the Charitable Trust.
109. The Plaintiffs allege that, currently, the Defendants, other than the Attorney General, are proceeding full steam ahead with the demolition and construction on the Trust property, the Thomas Property, to build the 1.5 Million Dollar home for the benefit of the Town Manager, Roberge. There is no way, once the improvements and buildings on the

property are destroyed and the new home is constructed, that the goals of the Charitable Trust will ever be able to be completed, and the beneficiary Police Officers will indeed suffer irreparable harm.

110. As part and parcel of the relief sought in this preliminary and permanent injunction, the Plaintiff seeks the appointment of a Special Master, with special powers granted by this Court. Those powers should include the powers of a Rule 52 Master as well as the power to marshal and take charge, control, and custody of all assets of the Charitable Trust. The Special Master should be authorized to order, receive, review and report upon all financial documents, narrative documents, and, in fact, all documents of any kind, nature or medium related to the Charitable Trust, from on and after the date that Violette M. Connolly passed away. The Special Master should be authorized to obtain such documents from any source, whether from the Defendants in their official or individual capacities, and including from the Attorney General's Office, in its capacity as the administrator of the Charitable Trust. The Special Master should be provided with the authority to hire professionals in the field of construction, real estate appraisal, marketing, legal professionals, and accounting professionals, and consultants as he deems fit and necessary in order to investigate the conduct of the Trustees and the Cy Pres Administrator (the Attorney General) from the date on beginning the death of Violette Connolly up through and including the present. The Plaintiffs seek the appointment of Retired Supreme Court Justice Frank J. Williams, as the retired Supreme Court Chief Justice has no ties, obligations or affiliations or biases to or toward any party in this case. His reputation for honesty and justice is without reproach. His fees and expenses ought to be paid by the Defendants.

111. The equities in this matter balance heavily in favor of the beneficiary Police Officers, who have never received notice and have never had any representation whatsoever since the date of death of Violette M. Connolly. The Defendants, meanwhile, have the ability to proceed, if and when this Court should rule, if the Court should rule in the Defendants favor, and no harm will be occasioned to them by having a preliminary injunction entered at this time.
112. At a Preliminary Injunction hearing, the Plaintiffs and each of them would present testimony and evidence, sufficient to establish all the necessary elements sufficient to satisfy a preliminary injunction burden of a substantial likelihood of success on the merits of their claims for violation of the Cy Pres Doctrine and the Defendants' breach of their fiduciary duty under the Trust, breach of loyalty, and requests for an accounting and fraud.
113. Upon information and belief, all of the improper and unlawful conduct of all the Defendants alleged above, including the breach of the fiduciary duty and violation of this Court's Order, is continuing and will continue in the future absent injunctive relief from this Court.
114. Without injunctive relief, the Plaintiffs will continue to be damaged by the Defendants. Without the appointment of a Court fiduciary, like Justice Williams, all Trust assets and evidence are in danger of total loss and waste.
115. In the absence of entry of a preliminary and permanent injunction by this Court, the Plaintiffs will suffer serious irreparable harm and injury, as beneficiaries of the Charitable Trust.

116. The entry of a preliminary and permanent injunction will not unduly harm or burden the Defendants because it is required, as a matter of law, for the Defendants to carry out the intent of the decedent and it is the Defendants' fiduciary obligation, as Trustee, to provide a duty of loyalty to the beneficiaries.
117. Public policy favors the entry of a preliminary and permanent injunction because, *inter alia*, such relief will prevent unlawful conduct and will preserve and protect the Plaintiffs as beneficiaries of the Charitable Trust.

WHEREFORE, this Court ought to grant the Plaintiffs' request for the issuance of a preliminary and permanent injunction and the appointment of a Special Master.

WHEREFORE, the Plaintiffs respectfully pray that this Court enter Judgment in their favor as and against the Defendants, and each of them, as follows:

- a. For Judgment against the Defendants and in favor of the Plaintiffs on Counts I through IV;
- b. For injunctive relief, including a Preliminary and Permanent Injunction, against the Defendants, as this Court deems just and proper and as prayed for in this Complaint;
- c. For equitable relief, appointing a new administrator and trustee of the charitable trust for the benefit of the New Shoreham Police Officers;
- d. For compensatory damages as may be proven at the time of trial;
- e. For legal fees permitted under any and every theory of law;
- f. For cost of suit and expenses associated therewith as may be permitted by law;

- g. For punitive damages in order to punish past and deter such future conduct by the Defendants and others standing in the shoes of the Defendants;
- h. For the appointment of a Special Master in retired Chief Supreme Court Justice Frank Williams, with all the powers outlined in Count IV of the Complaint, and with authority to return to this Court for instructions and further powers as may be deemed necessary; and,
- i. For any further and just relief that this Court deems just and proper.

THE PLAINTIFFS CLAIM A TRIAL BY JURY ON ALL ISSUES TRIABLE TO A JURY AND THE PLAINTIFFS CLAIM A TRIAL OR EVIDENTIARY HEARING BEFORE A COURT ON ALL EQUITY MATTERS. THE PLAINTIFFS SEEK EXPEDITED TREATMENT ON ALL EQUITABLE CLAIMS PURSUANT TO STATUTE

Respectfully submitted,
Plaintiffs
By and through their Attorneys,

/s/ Vincent A. Indeglia, Esq.
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